

SPECIAL COUNCIL MEETING

JULY 10, 2013

The Special Council Meeting of the Council of the County of Kaua'i was called to order by the Council Chair Jay Furfaro at the Council Chambers, 4396 Rice Street, Room 201, Līhu'e, Kaua'i, on Wednesday, July 10, 2013 at 9:01 a.m., after which the following members answered the call of the roll:

Honorable Gary L. Hooser
Honorable Ross Kagawa
Honorable Nadine K. Nakamura
Honorable Mel Rapozo
Honorable Jay Furfaro
Honorable JoAnn A. Yukimura (*present 10:53 a.m.*)

Recused: Honorable Tim Bynum

Chair Furfaro: Aloha and good morning. This is July 10, 2013. Let us make acknowledgement that I have an absent excuse for the full day from Councilmember Bynum and a tardy excuse from Councilmember Yukimura.

APPROVAL OF AGENDA.

Mr. Rapozo moved for approval of the agenda as circulated, seconded by Ms. Nakamura, and unanimously carried.

Chair Furfaro: Are there any commentary or discussion? If not, Council Rule 13(e) applies for public comment at this point. We only have two (2) people in the audience. No one is raising their hand at this particular moment for consideration. Let us go to Communications, please.

COMMUNICATIONS:

C 2013-241 Communication (06/28/2013) from the County Attorney requesting Council approval to expend up to \$75,000.00 for special counsel's continued services provided for Defendant County of Kaua'i in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court), and related matters.

C 2013-242 Communication (06/28/2013) from the County Attorney requesting Council approval to expend up to \$75,000.00 for special counsel's continued services provided for Defendant Shaylene Iseri-Carvalho in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court), and related matters.

C 2013-243 Communication (06/28/2013) from the County Attorney requesting Council expend funds up to \$75,000.00 for Special Counsel's continued services provided for Defendant Sheilah Miyake in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court), and related matters.

Chair Furfaro:
Mr. Mickens, please come up.

Is there any public comment on these items?

GLENN MICKENS: Thank you, Jay. I just have a short comment on ES-651. I guess C 2013-242 is also regarding the same issues related to Ms. Iseri-Carvalho and Mr. Bynum. I am not qualified to offer legal opinions on this matter but having attended Council Meetings for twenty (20) years, I feel like I am qualified to offer personal judgment on people in our Government. Having watched Ms. Iseri-Carvalho as one of our Councilmembers for years where she did a superb job of representing the people on so many issues. I have also seen her compile a ninety-five percent (95%) conviction rate as our Prosecuting Attorney. I simply want to give her my strongest vote on confidence in her legal battle ahead. I believe when she was on the Council, she was at the forefront of getting that bridge built in the Safeway parking lot. She and Tracy Murakami—they had pursued that for many—what, twenty (20) or thirty (30) years—I guess getting that done. I remember in the land use where they had to get water for certain areas and they were going to subdivide these places so they could put—I think it was like four (4) additional units on them or something and she fought that. I just remember many issues that I thought she was good for. Anyway, I just want to simply give her my vote of confidence. Thank you very much, Jay.

Chair Furfaro: Is there any further comments? If not, may I please have a roll call vote to go into Executive Session, but first, may I please call up our Deputy County Attorney to read the Executive Session items.

There being no objections, the rules were suspended.

JENNIFER WINN, Deputy County Attorney: Good morning, Council Chair and Councilmembers. I will read the items for your consideration.

There being no objections, ES-650, ES-651, and ES-652 was taken out of the order.

EXECUTIVE SESSION:

ES-650 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Section 3.07(e) of the Kaua'i County Charter, the Office of the County Attorney requests an executive session with the Council to consult with Special Counsel and to provide the Council with a briefing to update the Council as it relates to Defendant County of Kaua'i in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court) and related matters. The briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-651 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Section 3.07(e) of the Kaua'i County Charter, the Office of the County Attorney requests an executive session with the Council to consult with Special Counsel and to provide the Council with a briefing to update the Council as it relates to Defendant Shaylene Iseri-Carvalho in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court) and related matters. The briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-652 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and section 3.07(e) of the Kaua'i County Charter, the Office of the County Attorney requests an Executive Session with the Council to consult with Special Counsel and to provide the Council with a briefing to update the Council as it relates to Defendant Sheilah Miyake in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court) and related matters. The briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Chair Furfaro: Thank you, Jennifer. As a reminder, Glenn, the first series of numbers we read were the actual communications. ES-650, ES-651, and ES-652 were the actual postings for the Executive Session, one in the same. Thank you again, Jennifer.

There being no objections, the meeting was called back to order, and proceeded as follows:

Mr. Rapozo moved to reconvene into Executive Session, seconded by Ms. Nakamura.

Chair Furfaro: Is there any questions or comments before we move into Executive Session? Mr. Kagawa.

Mr. Kagawa: I had a comment and I wanted to speak while Glenn is here. This case again, which I stated many times, is very unusual. It is a case that was brought on a lot in part, because of politics. As we all know in politics, Glenn gave his honest assessment of Ms. Iseri-Carvalho—and in politics, even with me, some people do not—unfortunately, this became a political issue and it became high-drama for viewers on Kaua'i and Hō'ike probably had high viewership at this time. It was like a soap opera going on here. In the end, Mr. Bynum prevailed in his race for Council and Ms. Iseri-Carvalho, I believe, to the detriment of politics going on, did not prevail. I think in summary, this case needs to go to trial. We—the people, need to uncover what went on. I think the trial will do that. If we settle this case, it looks very bad. It looks very corrupt and I am the last person that wants to look corrupt. I ran here to try and clean up politics on Kaua'i. I hope I am accomplishing that job. Once again, my support for going to trial is going to be a strong one. I really do not care how much it costs in attorney fees. You guys can smile now, but like I say, getting the truth out is more important now to me, than paying attorney fees. Thank you.

Chair Furfaro: Anymore comments? If not, it has been my practice to go into Executive Session with a roll call vote.

The motion to reconvene into Executive Session for ES-650, ES-651, and ES-652 was then put, and carried by the following votes:

FOR EXECUTIVE SESSION:	Hooser, Kagawa, Nakamura, Rapozo,	
	Furfaro	TOTAL – 5,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Yukimura	TOTAL – 1,
RECUSED & NOT VOTING:	Bynum	TOTAL – 1.

Chair Furfaro: Thank you. For those in the audience, our Special Council Meeting today—the posting and agenda was for 10:30 a.m. We will be in Executive Session until that time.

There being no objections, the meeting recessed at 9:11 a.m.

The meeting reconvened at 10:53 a.m., and proceeded as follows:

Chair Furfaro: *Aloha.* We are back from Executive Session. May I ask the Clerk to individually read the three (3) action items that we need to take a roll call vote on?

(Ms. Yukimura was noted as present at 10:53 a.m.)

COMMUNICATIONS:

C 2013-241 Communication (06/28/2013) from the County Attorney requesting Council approval to expend up to \$75,000.00 for special counsel's continued services provided for Defendant County of Kaua'i in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court), and related matters: Mr. Kagawa moved to approve C 2013-241, seconded by Mr. Rapozo, and carried by the following vote:

FOR APPROVAL:	Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 6,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	Bynum	TOTAL – 1.

C 2013-242 Communication (06/28/2013) from the County Attorney requesting Council approval to expend up to \$75,000.00 for special counsel's continued services provided for Defendant Shaylene Iseri-Carvalho in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court), and related matters: Mr. Rapozo moved to approve C 2013-242, seconded by Ms. Yukimura, and carried by the following vote:

FOR APPROVAL:	Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 6,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	Bynum	TOTAL – 1.

C 2013-243 Communication (06/28/2013) from the County Attorney requesting Council expend funds up to \$75,000.00 for Special Counsel's continued services provided for Defendant Sheilah Miyake in Tim Bynum vs. County of Kaua'i, et al., Civil No. CV12-00523 RLP (U.S. District Court), and related matters: Mr. Rapozo moved to approve C 2013-243, seconded by Mr. Kagawa.

Chair Furfaro: Mr. Kagawa, you have the floor.

Mr. Kagawa: Real quick, I want to talk about all three (3). Again, I just want to reiterate that this is a very unusual case, one that deals with a lawsuit with a fellow colleague on the Council. This is a time where we cannot worry about financial impact as far as whether it is cost effective or not to the public. This

is a time when we need the truth to come out and we need to go to trial for this case. Thank you.

Chair Furfaro: Is there any further dialogue? If not, I would like a roll call vote, please.

The motion to approve C 2013-243 was then put, and carried by the following vote:

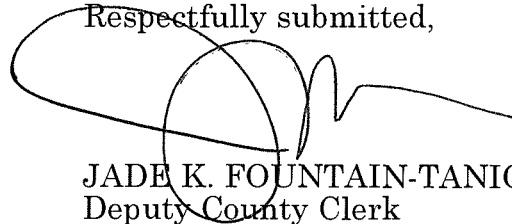
FOR APPROVAL:	Hooser, Kagawa, Nakamura, Rapozo, Yukimura, Furfaro	TOTAL – 6,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	Bynum	TOTAL – 1.

Chair Furfaro: On that note, we will conclude the Special Council Meeting that was scheduled for today.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 10:56 a.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA
Deputy County Clerk

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